IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY FIFTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

And
THE HON'BLE MR JUSTICE P.S.NARAYANA

WRIT PETITION NO : 7567 of 2004

Between:

1 Union of India, represented by the Secretary to Government of India, Ministry of Mines, Shastri Bhavan, New Delhi.
2 The Deputy Director General, Southern Region, Geological Survey of India, Bandlaguda, Hyderabad.

..... PETITIONERS

AND

M.Saravaiah S/o Buddaiah, Contingent Worker,

Geophysics Division, Geological Survey of India, Bandlaguda,

Hyderabad.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ or order or direction especially in the nature of Writ of Certiorari, or any other appropriate writ, order or direction, calling for the records pertaining to OA.No.776/2003 dt. 16/12/2003 on the file of the Hon'ble Central Administrative Tribunal, Hyderabad Bench, Hyderabad and quash the same as illegal, arbitrary, contrary to law and unconstitutional and declare the same as void *ab initio*, null and void and *non-est* in the eye or law.

Counsel for the Petitionera: MR.A.RAJASHEKAR REDDY (ASST.SOLICITOR GEN.)

Counsel for the Respondent: MR.NUTY RAM MOHAN RAO

The Court made the following:

ORAL ORDER: (per GB. J.)

The Writ Petition is filed by the Union of India assailing the order passed by the Central Administrative Tribunal (hereinafter referred to as the Tribunal) in OA.No.776 of 2003, dated 16.12.2003.

2. The respondent was appointed as casual labour in 1989 and he was being engaged as and when the situation requires. However, a scheme was framed by the Government of India on 10.9.1993 to grant temporary status to such of the casual labour who had been working for the last several years and who are put in a minimum service of 240 days. Though the respondent working as casual labour, he appears to have been not completed the requisite service as contemplated by the above circular, but, however, he filed OA.No.1207 of 1998 seeking grant of temporary status and the said OA was disposed of by the Tribunal on 20.8.1999 with the following directions:

> "This OA is therefore, disposed of with a direction to the respondent No.3 to consider the applicant's representation dated 1.7.1997 for regularization in any Group 'D' post. By way of abundant caution the applicant is directed to forward once again a copy of his representation dated 1.7.1997 to the respondent No.3 so as to enable him to take a suitable decision in the matter after considering the points raised by the applicant in the representation. This exercise shall be completed within 2 months from the date of receipt of the representation of the applicant".

Thereafter the petitioners filed a Review Application and the Tribunal also dismissed the same. However, the authorities disengaged the respondent by an order dated 28.2.2003. Challenging the said order, the respondent herein filed OA.No.776 of 2003 with the following reliefs:

> "a) Declare the action of the respondents in orally terminating the services of the applicant as arbitrary, bad in law, illegal, unjust, unsustainable and violative of Articles 14, 16 and 21 of Constitution of India.
>
> b) Consequently direct the respondents to continue the applicant in service and consider his case for regularization together with all

consequential benefits that flow from out of such a declaration/direction".

The Tribunal, after considering the matter, held that the termination of the respondent was illegal, but, however, directed the authorities to grant temporary status to the respondent keeping in view the OM.No.51016/II/Estt.©, dated 10.9.1993. Aggrieved by the said order, the Central Government filed the present Writ Petition.

3. The learned Assistant Solicitor General appearing on behalf of the petitioners submits that the order of the Tribunal is wholly illegal and arbitrary. He further submits that the Tribunal ought not to have given a positive direction to grant temporary status inasmuch as the temporary status has to be granted to those persons who fulfilled the criteria as on 10.9.1993, but the respondent herein did not fulfill the said criteria and therefore the said direction is liable to be set aside.

4. We have also heard the learned counsel for the respondent.

5. It is not in dispute that though the respondent did not fulfill the conditions for temporary status as on 10.9.1993, the fact remains that he continued beyond 10.9.1993 and it is nearly after one decade, he was disengaged from service. The Tribunal having considered that the termination is illegal has correctly held that the respondent is entitled to be reinstated and continued in service on the terms on which he was engaged prior to 28.2.2003, but, however, we find that the positive direction issued by the Tribunal is wholly sustainable. Accordingly we set aside the same and direct the Department to consider the case of the respondent for regularization keeping in view the provisions contained in the OM.No.51016/II/Estt.©, dated 10.9.1993 and also the letter issued by the Liaison Officer (SC/ST), dated 11.3.2003 and if the Department finds that the respondent had completed the requisite service in any year after 10.9.1993, he is entitled for grant of temporary status.

6. Accordingly the Writ Petition is disposed of. The respondent shall be reinstated into service forthwith as directed above, pending consideration of his case for temporary status as directed above. It is also brought to the notice of the Court that the respondent was being engaged on consolidated wages at the rate of Rs.2,300/- per month for the last seven years prior to the termination.

The Department also shall take into consideration this fact while considering the case of the respondent for grant of temporary status. No costs.

(G.BIKSHAPATHY, J.)

25th April, 2005.

(P.S.NARAYANA, J.)

SSR

..... REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Secretary to Government of India,
Ministry of Mines, Union of India, Shastri Bhavan, New Delhi.
2 The Deputy Director General, Southern Region,
Geological Survey of India, Bandlaguda, Hyderabad.

3 The Registrar, Central Administrative Tribunal, Hyderabad.

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